

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-1513-2020(O&M)
Date of decision: 28.10.2021**

Kulbir Singh and others

...Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jagdish Singh Mahal, Advocate,
for the petitioners.

Mr. H.S. Multani, AAG Punjab.

Ms. G.K. Mann, Senior Advocate with
Ms. Varinder Kaur Warraich, Advocate,
for respondents No. 2 and 3.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

CRM-26287-2021

Prayer in the present application is for placing on record the affidavits on behalf of respondents No. 2 and 3, as Annexures A-1 and A-2.

Notice in the application.

Learned State counsel and learned counsel for the non-applicant/petitioners submit that they have no objection, if the present application is allowed.

In view of the above, the present application is allowed. Annexures A-1 and A-2 are taken on record, subject to all just exceptions.

CRM-M-1513-2020

Prayer in this petition is for quashing of FIR No.143 dated 26.11.2019, registered at Police Station Dhariwal, District Gurdaspur, under Sections 380, 447, 448, 427, 506 and 34 IPC, along with all consequential proceedings arising therefrom, on the basis of compromise dated 14.12.2019 (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioners submits that the dispute was between the extended family members and now with the intervention of the respectable, the matter has been compromised.

Learned State counsel submits that there are specific allegations against the petitioners that they demolished the tubewell room of the complainant and had stolen the bricks etc. However, he does not dispute the factum of compromise arrived at between the parties.

Learned Senior Counsel for respondents No.2 and 3 submit that the matter has amicably been settled between the parties, who are closely related with each other. In the affidavits (Annexures A-1 and A-2) sworn by respondents No. 2 and 3, they have specifically deposed that they have no objection, if the present FIR is quashed on the basis of compromise.

The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that

compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

The Hon'ble Apex Court in the case of ***Gian Singh*** Versus ***State of Punjab and another*** 2012(4) RCR (Criminal) 543 has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having

overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

The same view has been reiterated by Hon'ble the Apex Court in case ***Narinder Singh and others Vs. State of Punjab and another***, 2014(2) RCR (Criminal) 482.

Though in ordinary course of process, the parties were to be relegated to the trial Court for recording their statements, yet in view of the fact that both the parties accept the factum of compromise, this Court, instead

of following the said procedure, proceeds on to quash the FIR on the basis of the compromise dated 14.12.2019 (Annexure P-2). As, both the parties have arrived at a compromise and decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, the present petition is allowed. FIR No.143 dated 26.11.2019, registered at Police Station Dhariwal, District Gurdaspur, under Sections 380, 447, 448, 427, 506 and 34 IPC, along with all consequential proceedings arising therefrom, are hereby quashed qua the petitioners, on the basis of compromise dated 14.12.2019 (Annexure P-2) arrived at between the parties, subject to depositing the costs of Rs.10,000/- by the petitioners with the Lawyers' Welfare Fund, Punjab and Haryana High Court, Chandigarh.

Needless to say that the parties shall remain bound by the terms of compromise and their statements made in the Court below.

28.10.2021

parveen kumar

Whether reasoned/speaking?
Whether reportable?

(HARNARESH SINGH GILL)
JUDGE

Yes/No
Yes/No